IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2060 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BURHANI TIN FACTORY

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 2060 of 1988

MR VK BHATT FOR MR SI NANAVATI for Petitioners No. 1-2

MR ASIM J PANDYA for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 30/06/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

A bare perusal of the prayers made in this petition indicates that the petition was filed on a mere apprehension on account of visit of the Officers of 1 the Central Excise Department to the petitioners' factory on 18/4/1988. The petitioners have also prayed for declaration that the activity of Offset printing on tin plates/P.C.R.C.A.sheets is not manufactured as defined in the Central Excise Act. The petitioners have also made subsequent amendment and prayed for a declaration that sub-heading No.7210.30 and sub-heading No.7212.30 are ultravires Entry 84 in the list in Schedule 7th to the Constitution of India.

2 Since, the petitioners have not produced so far any order of adjudication against the petitioners or any order demanding excise duty on the goods in question even after passage of almost 16 years, it appears to the Court that it is not necessary to entertain this petition which was filed on a mere apprehension. It is, however, clarified in case the respondent authorities have issued any order adverse to the petitioners and the petitioners have challenged such order in any other proceedings, the disposal of this petition shall not come in the way of the petitioners in pursuing the other remedies.

3 Subject to the above observation the petition is rejected. Rule is discharged with no order as to costs. Interim relief granted earlier stands vacated.

(M.S.Shah, J)

(D.A.Mehta, J)
m.m.bhatt